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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,066	01/20/2004	Ozgur C. Leonard	15437-0598	4588
29989	7590	07/10/2006	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			LEROUX, ETIENNE PIERRE	
2055 GATEWAY PLACE			ART UNIT	
SUITE 550			PAPER NUMBER	
SAN JOSE, CA 95110			2161	

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/762,066	Applicant(s) LEONARD ET AL.	
	Examiner Etienne P. LeRoux	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Claims

Claims 1-27 are pending. Claims 1-27 are rejected as detailed below.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification does not provide a proper antecedent basis for associating one or more statistical data structures with a key value of claim 1.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “if a particular statistical data structure in the set of one or more statistical data structures is associated with a VOSE in which the first process executes.” The scope of the invention cannot be determined because the above association is unclear because it is unclear whether it is the same or different from the claimed key value association.

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Claim 1 recites “if a particular data structure in the set of one or more statistical data structures is associated with a VOSE in which the first process executes, then sending to the first process, statistical data that is stored in the particular statistical data structure.” The scope of the invention cannot be determined because it is unclear which data from the set of statistical data structures is sent to the first process.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,813,766 issued to Hay (hereafter Hay), as best examiner is able to ascertain.

Claims 1, 9, 10, 18, 19 and 27:

Hay discloses:

receiving one or more key values from a first process that executes in a first virtual operating system environment (VOSE) of a plurality of VOSES controlled by a single operating system kernel instance [Fig 1, col 3, lines 35-55]

selecting, from a plurality of statistical data structures [Fig 2, col 4, lines 30-45], a set of one or more statistical data structures that are associated with the one or more key values [virtual server identifier, col 4, lines 45-55] determining whether any statistical data structure in the set

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of one or more statistical data structures is associated with a VOSE in which the first process executes

if a particular statistical data structure in the set of one or more statistical data structures is associated with a VOSE in which the first process executes, then sending, to the first process, statistical data that is stored in the particular statistical data structure [scheduling priority 215, Fig 2, col 4, line 60 through col 5, line 2].

Claims 2, 11 and 20:

Hay discloses if no statistical data structure in the set of one or more statistical data structures is associated with a VOSE in which the first process executes, then preventing statistical data that is stored in statistical data structures in the set of one or more statistical data structures from being sent to the first process [inherent in authorized entity, col 2, line 35-40]

Claims 3, 12 and 21:

Hay discloses receiving, from a second process, a request to mount a file system, in response to receiving the request, performing steps comprising: mounting the file system, thereby producing a mount: establishing an association between the mount and the particular statistical data structure, determining in which VOSE of the plurality of VOSES the second process executes: and establishing an association between the particular statistical data structure and a VOSE in which the second process executes [col 4, lines 1-10].

Claims 4, 13 and 22:

Hay discloses establishing an association between a central processing unit (CPUI and the particular statistical data structure; establishing an association between the CPU and a resource pool; receiving, from a second process, a request to bind a particular VOSE to the

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resource pool; and in response to receiving the request, establishing an association between the particular statistical data structure and the particular VOSE [col 4, lines 10-30].

Claims 5, 14 and 23:

Hay discloses receiving the one or more key values from a second process that executes in a global operating system environment (OSE) that comprises the plurality of VOSES; determining whether any statistical data structure in the set of one or more statistical data structures is associated with the global OSE; and if the particular statistical data structure is associated with the global OSE, then sending, to the second process, statistical data that is stored in the particular statistical data structure [Fig 2, col 4, line 60 through col 5, line 2].

Claims 6, 15 and 24:

Hay discloses receiving the one or more key values from a second process that executes in a second VOSE of the plurality of VOSES; determining whether any statistical data structure in the set of one or more statistical data structures is associated with a VOSE in which the second process executes; and if the particular statistical data structure is associated with a VOSE in which the second process executes, then sending, to the second process, statistical data that is stored in the particular statistical data structure [Fig 2, col 4, line 60 through col 5, line 2].

Claims 7, 16 and 25:

Hay discloses receiving a request to create a second VOSE within the plurality of VOSES; in response to receiving the request to create the second VOSE, creating a second statistical data structure; and establishing an association between the second statistical data structure and a first set of key values that typically are associated with a statistical data structure

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in a non-partitioned OSE; wherein all statistical data requests that are (a) received by processes executing within the second VOSE and (b) for statistical data that is associated with the first set of key values cause the operating system kernel instance to return statistical data that pertains only to the second VOSE [Fig 2, col 4, line 60 through col 5, line 2].

Claims 8, 17 and 26:

Hay discloses receiving a request to create a third VOSE within the plurality of VOSES; in response to receiving the request to create the third VOSE, creating a third statistical data structure and establishing an association between the third statistical data structure and a third set of key values that typically are associated with a statistical data structure in a non-partitioned OSE; wherein all statistical data requests that are (a) received by processes executing within -the third VOSE and (b) for statistical data that is associated with the second set of key values cause the operating system kernel instance to return statistical data that pertains only to the third VOSE; wherein the third VOSE is separate from the second VOSE; and wherein the third statistical data structure is separate from the second statistical data structure [Fig 2, col 4, line 60 through col 5, line 2].

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022.

The examiner can normally be reached Monday-Friday, 8:00 am - 4:30 pm.

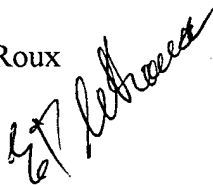
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Etienne LeRoux

7/5/2006

A handwritten signature in black ink, appearing to read 'Etienne LeRoux', is written over the printed name and date.